



Progress Through Regional Cooperation In The Alleghenies



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September/October 2018



**State of the PTAC**

by James Gerraughty  
PTAC Program Manager



Happy New (Fiscal) Year!  
The government started its 2019 Fiscal Year (FY) on October 1. There is a temporary spending bill in place that will fund the government through December 2018. We'll be keeping an eye on this as it develops. We had a National PTAC Day, this past Wednesday, September 26, 2018. This was an event taking place at PTACs across the country. We hosted a webinar on HUBZones and their possible effect on your business. A little further down in this newsletter is a success story that we're very proud of regarding a local company obtaining their HUBZone certification. Keep your eyes peeled for upcoming outreach events from our PTAC! We're planning a combination of face-to-face trainings and webinars on government contracting topics. If you have ideas for topics, or would like to learn more about something, please drop us a line at [ptac@sapdc.org](mailto:ptac@sapdc.org) or call us at (814) 949-6500.

**Register NOW:**  
Nov. 6&7 OEA  
International  
Government Contract  
Seminar - [REGISTER](#)  
*Or see below for details*



**International Government Contracting Seminar - November 6 & 7, 2018, Johnstown, PA**

The Southern Alleghenies Planning & Development Commission (SAP&DC) and our regional economic development partners, with the support of the Commonwealth of Pennsylvania, have received a U.S. Department of Defense (DoD) Office of Economic Adjustment (OEA) grant to assist defense contractors' transition into new markets. We are offering the following training to eligible businesses at no cost if company representatives successfully complete the training.

Please note: This is a \$1250 value and there is NO charge for defense contractors. Space is limited to 25 people, and we can only allow 2 individuals per company. The deadline to [REGISTER](#) is October 26, 2018.

[DETAILS](#)

**SUCCESS STORY:  
HUBZone  
Certification for a  
Local Business**



In March of this year, **Joseph T. Berrena Mechanicals, Inc.**, reached out to the PTAC for assistance with a HUBZone certification. Gloria Brooks, the PTAC's Program Specialist, walked J.T. Berrena Mechanicals through the process and reviewed the requirements of this socio-economic certification with them. There were a few challenges that had to be remedied along the way, like the SBA using a different map than specified in the 13 CFR 126 (the federal laws that cover HUBZones), but they were met and dispensed with. Through Gloria's diligence and J.T. Berrena Mechanical's hard work on the application, Joseph T. Berrena Mechanical, Inc was granted HUBZone certification on July 13, 2018.

If your business would like to know more about HUBZone certification or any other certification, please contact the PTAC at (814) 949-6500 or [ptac@sapdc.org](mailto:ptac@sapdc.org).

**VA Will Use SBA SDVOSB Eligibility Rules Starting October 1, 2018**

By Steven Koprince, Koprince Law, LLC

The VA will begin using the SBA's eligibility rules to verify SDVOSBs and VOSBs beginning October 1, 2018.

In a final rule published today in the Federal Register, the VA confirms that the SBA's eligibility requirements will apply beginning next week-but in my eyes, one very important question remains unanswered.

As regular SmallGovCon readers know, the differences between the government's two SDVOSB programs have caused major headaches for veterans. Because the two sets of regulations have different eligibility requirements, a company may be an eligible SDVOSB under one set of rules, but not the other.

In 2016, Congress addressed the problem. As part of the 2017 NDAA, Congress directed the VA to verify SDVOSBs and VOSBs using the SBA's regulatory definitions regarding small business status, ownership, and control. Congress told the SBA and VA to work together to develop joint regulations governing SDVOSB and VOSB eligibility. The VA published a proposed rule earlier this year to eliminate its separate SDVOSB and VOSB eligibility requirements.

**Now the VA has issued a final rule**, set to take effect in just one week on October 1. The final rule broadly reiterates that the VA is eliminating its separate SDVOSB and VOSB eligibility requirements because "regulations relating to and clarifying ownership and control are no longer the responsibility of VA." Instead, in verifying SDVOSBs and VOSBs, the VA will use the SBA's eligibility rules set forth in 13 C.F.R. part 125. The VA's final rule answers a few questions from the

public about the change. **Among the VA's answers:**

- Despite a common misconception, this final rule does not move the verification process from the VA to the SBA. The final rule states, "[a]lthough the authority to issue regulations setting forth the ownership and control criteria for SDVOSBs and VOSBs now rests with the Administrator of the SBA, the [VA] is still charged with verifying that each applicant complies with those regulatory provisions prior to granting verified status and including the applicant in the VA list of verified firms."
- The "VA and SBA will treat joint ventures the same way," applying the SBA's regulatory criteria. This is important because the VA currently does not treat joint ventures the same way as the SBA. Although the VA largely defers to the SBA's joint venture rules, the VA has been requiring SDVOSB joint ventures to demonstrate that the SDVOSB managing venturer will receive at least 51% of the joint venture's profits. This conflicts with the SBA's current regulation, which allows the SDVOSB managing venturer to receive as little as 40% of the joint venture's profits, depending on how the joint venturers split work.
- Persons "found guilty of, or found to be involved in criminally related matters or debarment proceedings" will be immediately removed from the VetBiz database. Additionally, owing outstanding taxes and unresolved debts to "governmental entities outside of the Federal government" may be disqualifying, but won't lead to an automatic cancellation.

As you may recall, the SBA proposed to revise its own SDVOSB regulations earlier this year. These proposed rules, when finalized, would apply to both the VA and SBA.

The VA's final rule indicates that the SBA's final rule also will take effect on October 1. "VA and the SBA believe a single date on which all of the changes go into effect is the most effective path for implementation," the VA writes. [READ MORE](#)

Accessed 10/02/2018

### **If You're Not Early, You're Late: Meeting Deadlines in Federal Procurements**

By James Tucker, Associate, Morrison-Foerster

Businesses hoping to win a government contract must be familiar and comply with a host of complex timeliness rules, from the deadlines for submitting proposals and revisions, to the rules for protesting a potentially improper award to a competitor. One small slip-up may be the difference between receiving a contract and not receiving it.

Untimeliness is a theme that frequently appears in the Government Accountability Office (GAO) protests we highlight on this blog: late proposals, tardy requests for a debriefing, untimely protests. Some deadlines are

obvious: If the solicitation says proposals are due at 5:00 p.m., don't submit your proposal at 5:30 p.m. Others are less intuitive: When is the last possible moment you can request a required debriefing? A few are positively convoluted.

We provide a few practical tips on timeliness below, illustrated with some cautionary protest decisions. As always, if you are not absolutely sure about any deadline, ask your procurement attorney.

### **Submitting a Timely Proposal**

Each solicitation for a government contract includes a deadline for submitting proposals or bids. If the agency establishes a competitive range and opens discussions, the contracting officer also will set a common date for submission of final proposal revisions. As a general rule, if you miss one of these deadlines—even by a fraction of a minute—your proposal is unacceptable. This is colloquially known as the "Late Is Late" rule. There is a line of decisions at the GAO allowing (but not requiring) the government to extend a deadline retroactively in the interest of greater competition, as long as it is extended for all offerors, but there is no guarantee that an agency will use that authority in any given procurement. There also is at least one Court of Federal Claims decision rejecting this practice as contrary to regulation.

**Here are a few practical tips**, with some exemplary cases chosen from the plethora of GAO decisions addressing late proposals.

**Allow time for technical difficulties and unexpected delays.** As electronic submission of proposals has become the norm, an increasing number of protest decisions involve computer problems. Submit your proposal early and verify receipt.

- Western Star Hospital Authority, Inc., B-414216.2, May 18, 2017, 2017 CPD ¶ 152 (agency reasonably rejected proposal where the designated agency email account did not receive the proposal by the deadline, even though offeror electronically sent it before the deadline and evidence suggested that problems in government servers delayed the transmission)
- Airrus Mgmt. Sys., LLC, B-416358, Aug. 9, 2018, 2018 CPD ¶ 275 (agency reasonably rejected proposal where agency servers bounced the protester's first attempts to submit its proposal by email for exceeding the system's allowable attachment size, and where the final attempt did not reach the designated email address until six minutes after the proposal submission deadline had passed)
- ALJUCAR, LLC, B-401148, June 8, 2009, 2009 CPD ¶ 124 (agency reasonably rejected proposal where protester arrived at agency facility only eight minutes before the deadline, encountered delays at the security checkpoint, and delivered the proposal to the designated room 29 minutes late)

**Check the time zone.** If the solicitation sets a deadline

of 2:00 p.m. Eastern Time, it doesn't matter what time it is in your time zone.

- Associated Fabricators & Constructors, Inc., B-405872, Dec. 14, 2011, 2011 CPD ¶ 279 (where solicitation set a submission deadline of 2:00 p.m. Eastern time, it was irrelevant for proposal submission purposes that the contract was going to be performed in the Central time zone)

**Submit the whole proposal on time.** It's not good enough if the agency receives only part of your proposal on time.

- Inland Serv. Corp., Inc., B-252947.4, Nov. 4, 1993, 93-2 CPD ¶ 266 (the entire proposal was late and unacceptable where the technical proposal was received on time but the price proposal was late)

**Make sure you have the correct destination.** It won't matter what time you submitted the proposal if you send it to the wrong destination.

- Shirlington Limousine & Transportation, Inc., B-299241.2, March 30, 2007, 2007 CPD ¶ 68 (agency reasonably rejected proposal that the protester hand-delivered on time but to the wrong agency office)

#### **Submitting a Timely Debriefing Request**

As we've said before, debriefings are valuable opportunities for an offeror (whether successful or unsuccessful) to learn more about the evaluation of its proposal, the rationale for the award decision, and ways for improving proposals in the future. If a disappointed offeror is inclined to protest, the information that an agency provides (or withholds) in a debriefing is often crucial to deciding whether to protest or not.

[READ MORE](#)

Accessed 10/02/2018

#### **About Us**

The PTAC at SAP&DC is an economic development entity that bridges the gap between supplier and buyer in the government marketplace. The PTAC stands ready to support businesses in the central PA Alleghenies region in the pursuit to secure contracts with local, state and/or federal government agencies nationwide.

Due to the generous support of our Commonwealth and Federal funding partners, services provided by the PTAC are free of charge.

Whether you are an experienced contractor or new to the government marketplace, the PTAC will provide one-on-one counseling utilizing all of the program resources necessary to increase your share of contract awards.

Contact us today at The PTAC at SAP&DC to get started!

Email: [ptac@sapdc.org](mailto:ptac@sapdc.org)

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